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April 5, 2005

### HAND DELIVERY

The Honorable Gregory M. Sleet  
United States District Court for the District of Delaware  
844 King Street  
Wilmington, DE 19801

Re: *Enzon Pharmaceuticals, Inc. v. Phoenix Pharamacologics, Inc.*,  
C.A. No. 04-1285-GMS

Dear Judge Sleet:

I write on behalf of the parties to set forth the dispute on the agenda for the discovery teleconference set for Thursday, April 7, 2005 at 2:00 p.m.

The gravamen of Enzon's complaint against Phoenix is that former Enzon employee Mike Clark filed a patent application in his own name after leaving Enzon that was based on work done at Enzon. The patent that issued from this application was assigned by Dr. Clark to Phoenix, which is a start-up company that he founded. Phoenix denies that the invention claimed in the patent was based on work done at Enzon.

The disagreement between the parties now presented to the Court concerns a provision in the Protective Order. The provision at issue would allow a party receiving confidential documents in discovery to show those documents to anyone named on them as an

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author or recipient. One effect of this provision would be to allow Phoenix to show Dr. Clark Enzon's confidential documents that he had authored or already seen. Enzon disagrees with including such a provision.

Enzon is concerned about giving Dr. Clark, a current Phoenix employee and competitor of Enzon, such access, because Dr. Clark is accused in this suit of using Enzon's trade secrets to obtain a patent. Phoenix simply wants to ensure that Dr. Clark is able to participate in the defense of the suit by seeing documents to which he already had access as the author or recipient. Dr. Clark would be prohibited by the Protective Order from using such documents in any way other than for purposes of this litigation. Enzon states that this case is no different from any other patent case in which document review is conducted by technically trained patent counsel and independent experts who are approved under the usual notice provisions of the Protective Order.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Glenn C. Mandalas', with a stylized flourish at the end.

Glenn C. Mandalas  
(# 4432)

cc: Clerk of the Court (by hand and electronic filing)  
Richard D. Kirk, Esquire (by electronic filing and e-mail)  
Joseph Lucci, Esquire (by e-mail)  
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